

REMARKS

This amendment is responsive to the Office Action dated October 21, 2004. Applicant has amended claims 2, 3, 15, 16, 29, and added new claims 39-42. Claims 1-42 are pending upon entry of this amendment.

As a preliminary matter, Applicant has amended claims 3, 16, and 29 for purposes of clarity due to lack of antecedent basis for “following the replacement of the CLI module.”

Allowable Subject Matter

In the Office Action, the Examiner indicated that claims 3-13, 16-26 and 29-38 include subject matter not found within the prior art, and allowable if rewritten in independent form. The Applicant agrees with the Examiner’s conclusion. In this amendment, Applicant has added new independent claims 39 and 41 that include certain subject matter from claims 3 and 29, respectively, and all subject matter of the base claims. Applicant submits that claims 39 and 41 and the claims dependent therefrom are in condition for allowance.

Claim Rejection Under 35 U.S.C. § 103

In the Office Action, the Examiner rejected claims 1, 2, 14, 15, 27 and 28 under 35 U.S.C. 103(a) as being unpatentable over Ozzie et al. (USPN 6,640,241) in view of Rosenthal (USPN 5,964,844). Applicant respectfully traverses the rejection. The applied references fail to disclose or suggest the inventions defined by Applicant’s claims, and provide no teaching that would have suggested the desirability of modification to arrive at the claimed invention.

Claims 1 and 14

With reference to independent claims 1 and 14, for example, the applied references lack any teaching that would have suggested receiving a command line interface (CLI) command and, in response to the CLI command, accepting commands encoded in accordance with an extensible markup language, as required by claims 1 and 14.

In rejecting Applicant’s claims, the Examiner asserts that Ozzie et al. (Ozzie) describes “using XML in processing [client] requests” and cites Figure 4, col. 11, ln. 22 through col. 12, ln.

54. The Examiner correctly recognizes that Ozzie fails to even describe a CLI. Nevertheless, the Examiner asserts that it would have been obvious to one of ordinary skill to modify the Ozzie system to implement a CLI in view of Rosenthal, and then further provide a command that permits acceptance of XML commands. The Examiner's analysis is incorrect for several reasons.

First, neither Ozzie nor Rosenthal teaches nor suggests accepting commands encoded in accordance with an extensible markup language in response to receiving a CLI command via a CLI interface. Thus, even if the Ozzie system were modified to include a CLI interface as suggested by the Examiner, Applicant's claimed invention would not be achieved.

Second, the motivation for the modification stated by the Examiner is not provided by the prior art, as is required. The Examiner stated that such a modification would have been obvious to one of ordinary skill "because it would have enabled users to identify the command object in the command buffer and minimize the need to maintain the code located in different places in communications network [sic]." However, the Examiner cited no prior art teaching as the source for the motivation.

The Court of Appeals for the Federal Circuit has made it clear that motivation to combine references must be found in the prior art. It is insufficient to merely pull such motivation out of thin air. Rather, the Examiner's rejection must be based on substantial evidence in the record demonstrating that the motivation for making the claimed invention resides in the prior art.¹

Moreover, it is unclear how the Ozzie system would achieve the results suggested by the Examiner (i.e., minimization of code) if modified to include a command line interface. In any event, the prior art provides no such motivation, and the motivation offered by the Examiner is unrelated to Applicant's claims.

Claims 2, 15 and 28

With respect to amended claims 2 and 15, neither Ozzie nor Rosenthal describes replacing the CLI process with a management server process in response to the CLI command, wherein the management server process provides an extensible markup language-based application programming interface (API) to the client.

¹ *In re Lee*, 61 USPQ2d 1430, 1433 (Fed. Cir. 2002); *In re Chu*, 36 USPQ2d at 1094.

In rejecting claims 2 and 15, the Examiner relied exclusively on the Ozzie reference, stating that Ozzie describes “replacing the CLI process with a management server process that provides an extensible markup language-based API to the client.” For support, the Examiner stated that Ozzie describes processing data using APIs and cited col. 12, ll. 12-53 and col. 13, ll. 9-67.

However, as correctly recognized by the Examiner with respect to claims 1 and 14, Ozzie fails to even describe a CLI. Consequently, Ozzie clearly fails to suggest replacing a CLI process with a management server process in response to a CLI command, as required by Applicant’s claims 2 and 15. Rather, the only interface Ozzie provides is based on XML. Accordingly, there is no need to replace any process in Ozzie to accommodate XML. The Examiner provided no other support for the rejection of claims 2 and 15. Thus, the Examiner’s analysis with respect to claims 2 and 15 is clearly erroneous, and the rejection should be withdrawn.

Claim 27

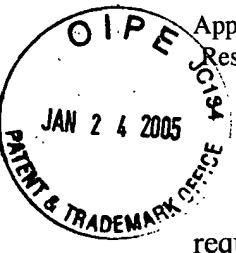
With respect to claim 27, the applied references lack any teaching that would have suggested a management server module that receives CLI commands from the CLI module and, in response to one of the CLI commands, accepts commands encoded in accordance with an extensible markup language. In rejecting Applicant’s claims, the Examiner again correctly recognizes that Ozzie fails to describe a CLI. Nevertheless, the Examiner asserts that it would have been obvious to one of ordinary skill to modify the Ozzie system to implement a CLI in view of Rosenthal.

The Examiner’s argument is incorrect for at least the reasons set forth above with respect to claims 1 and 14. As discussed above, neither Ozzie nor Rosenthal teach or suggest accepting commands encoded in accordance with an extensible markup language in response to receiving a CLI command via a CLI interface. Thus, even if the Ozzie system were modified to include a CLI interface as suggested by the Examiner, the resulting system would not conform to the requirements of Applicant’s claims. Second, the Examiner again cited a motivation for the modification that is not found within the cited prior art, as is required. In particular, the Examiner again stated that such a modification would have been obvious to one of ordinary skill

“because it would have enabled users to identify the command object in the command buffer and minimized the need to maintain the code located in different places in a communications network.” The Examiner cited no prior art teaching as the source for the motivation. Moreover, it is not clear how the Ozzie system would even achieve the results suggested by the Examiner (i.e., minimization of code) if modified to include a command line interface. In any event, the prior art provides no such motivation, and the motivation offered by the Examiner is unrelated to Applicant’s claims.

Finally, contrary to the Examiner’s assertion, Ozzie does not even disclose a network router. The Examiner appears to assert that the “relay agent” (316) shown in Fig. 3 is a network router. To the contrary, Ozzie describes a peer-to-peer system, and relay agent 316 is a computer that relays messages between peers. For example, at col. 21, ll. 38-42, Ozzie clearly states that the relay agent serves as a “logical proxy” that can “mediate communications” between peers. Contrary to the Examiner’s assertions, Ozzie does not describe a network router as described and claimed by the Applicant.

For at least these reasons, the Examiner has failed to establish a *prima facie* case for non-patentability of Applicant’s claims 1, 2, 14, 15, 27 and 28 under 35 U.S.C. 103(a). Withdrawal of this rejection is requested.



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CONCLUSION

All claims in this application are in condition for allowance. Applicant respectfully requests reconsideration and prompt allowance of all pending claims. Please charge any additional fees or credit any overpayment to deposit account number 50-1778. The Examiner is invited to telephone the below-signed attorney to discuss this application.

Date:

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